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JUL 26 2007

PATENT APPLN. NO. 10/786,369
RESPONSE UNDER 37 C.F.R. §1.111

PATENT
NON-FINAL

REMARKS

Claims 35 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The position of the Office is that the recitations "an antigenic substance", "contacting cells of a biologically functioning substance" and "isolating and/or separating components of the resultant extinguished cells to obtain the antigenic substance" are indefinite.

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps. The Office identifies the omitted steps as "isolation and separation steps of the antigenic components of resultant extinguished cells".

Claims 35 and 37 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The position of the Office is that the specification does not include descriptions of determining which components of the extinguished cells are antigenic and of how the antigenic components are isolated/separated from the non-antigenic cell components.

The portion of claim 1 prior to the identification of the structure of Formula 3-a, i.e., the preamble and first characterizing recitation, has been amended to read as follows:

"A method of ~~producing an antigenic substance~~ prophylaxis and/or therapy of a cancer comprising administering a vaccine

~~prepared by treating cells of said cancer contacting cells of a biologically functioning substance with a compound of the Formula 3-a or prepared from a vaccine precursor prepared by treating the cells of said cancer with a compound of the Formula 3-a to extinguish the cells and isolating and/or separating components of the resultant extinguished cells to obtain the antigenic substance:"~~

This amendment is based on original claim 21. Original claim 21 is directed to a use of a vaccine or a vaccine precursor produced using the substance of Formula 3-a as an anti-tumor agent.

Amended claim 35 is also supported by several descriptions throughout the specification of the present application. All of the Examples use Yoshixol (i.e., a compound within the scope of Formula 3-a) as an antigenic substance inducer, and cancer cells (mouse leukemic cells L-1210 or mouse melanoma cells B16) are treated with Yoshixol. (See the paragraph bridging pages 42 and 43 of the specification). As described, a rabbit was immunized with the vaccine prepared by treating mouse leukemic cells L-1210 (cancer cells), and production of the anti-mouse leukemic cell antibody in the body of the rabbit was confirmed.

A similar experiment is described in the paragraph bridging pages 44 and 45 of the specification of the present application. In this Example, mouse melanoma cells B16 (cancer cells) are treated with Yoshixol to prepare a vaccine, and mice were immunized with the prepared vaccine.

The amendment to claim 35 is believed to overcome the 35 U.S.C. 112, first and second paragraphs, rejections of the claims. Without admitting the propriety of the Office's position, the recitations identified by the Office as being indefinite have been deleted from claim 35. Additionally, without admitting the propriety of the Office's position, the step of isolation and separation of antigenic components, identified by the Office as containing omitted steps and not complying with the written description requirement, has been deleted from claim 35.

Removal of the 35 U.S.C. 112 rejections of the claims is believed to be in order and is respectfully requested.

The Office has kindly suggested that applicants cancel withdrawn claims 29-34, 36 and 38-46 in order to expedite prosecution. However, these claims are not canceled in the present paper. Applicants note that these claims were non-elected without traverse and, if the application is otherwise in condition for allowance, can be canceled by the Office, e.g., via an Examiner's Amendment.

Applicants note that claim 36 was withdrawn as a result of an election of species requirement. Applicants respectfully submit that rejoinder of claim 36 is in order in view of the allowability of claim 35.

The foregoing is believed to be a complete and proper response to the Office Action dated January 26, 2007, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833..

Respectfully submitted,

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